

47
TO THE
KING'S

Most Excellent MAJESTY.

The Humble Petition of *Molineux Disney Esq; Son and Heir in the direct Line to Sir John Hussey, Lord Hussey.*

Humbly sheweth,

That Sir John Hussey, Your Petitioner's Ancestor, whose Heir he is, was seised to him and his Heirs, as of Fee and Right, of the Degree and Dignity of Lord Hussey, and was called by Writ of Summons to Sit in Parliament, in the 21th Year of King Henry the Eighth; as also by one other Writ of Summons of the same King, by the name of John Lord Hussey, and accordingly by Virtue of the same Writ, sate in the same Parliament, who had Issue as Son and Heir apparent, Sir William Hussey.

That the said Lord Hussey was in the 29th year of the same King's Reign Attainted and Executed for High-Treason, his Blood Corrupted, and his Honour thereby Forfeited.

That in the Third year of King Edward the Sixth, the said Sir William Hussey, upon his Petition, was by Act of Parliament restored in Blood, as Heir to the Degree of his Father, and shortly after died, leaving Issue only two Daughters, Neale and Anne; which Anne is dead without Issue: Neale Hussey, Eldest Daughter and Coheir to the said Sir William, was Married to Richard Disney of Norton Disney Esquire, from whom by several mesue Descents Your Petitioner is as Son and right Heir descended in the direct Line, (that is to say) Son and Heir to William Disney, Son and Heir to Sir Henry Disney, Son and Heir to Daniel Disney, Son and Heir to Richard Disney, and the said Neale Daughter and Heir to Sir William Hussey, Son and Heir to the said John Lord Hussey,

May it therefore please your Most Excellent Majesty, graciously to give Command for your Petitioners Summons to this present Parliament, there to Sit and Enjoy the Place and Prebeminence to the said Dignity to him descended, and of Right belanging.

And your Petitioner shall dayly pray for Your Majesties long and prosperous Reign over us.

C. G. Young Esq
Care of
Clark Herald.

With W. Turnbull's respects.

12th August 1836.

for Δ 794

47
TO THE
KING'S
Most Excellent MAJESTY.

The Humble Petition of *Molineux Disney Esq; Son and Heir in the direct Line to Sir John Hussey, Lord Hussey.*

Humbly sheweth,

THat Sir John Hussey, Tour Petitioner's Ancestor, whose Heir he is, was seised to him and his Heirs, as of Fee and Right, of the Degree and Dignity of Lord Hussey, and was called by Writ of Summons to Sit in Parliament, in the 21th Year of King Henry the Eighth; as also by one other Writ of Summons of the same King, by the name of John Lord Hussey, and accordingly by Virtue of the same Writ sate in the same Parliament who had Issue as Son and Heir apparent, Sir William Hussey.

That the said Lord Hussey was in the 29th year of the same King's Reign Attainted and Executed for High-Treason, his Blood Corrupted, and his Honour thereby Forfeited.

That in the Third year of King Edward the Sixth, the said Sir William Hussey, upon his Petition, was by Act of Parliament restored in Blood, as Heir to the Degree of his Father, and shortly after died, leaving Issue only two Daughters, Neale and Anne; which Anne is dead without Issue: Neale Hussey, Eldest Daughter and Coheir to the said Sir William, was Married to Richard Disney of Norton Disney Esquire, from whom by several mesue Descents Tour Petitioner is as Son and right Heir descended in the direct Line, (that is to say) Son and Heir to William Disney, Son and Heir to Sir Henry Disney, Son and Heir to Daniel Disney, Son and Heir to Richard Disney, and the said Neale Daughter and Heir to Sir William Hussey, Son and Heir to the said John Lord Hussey,

May it therefore please your Most Excellent Majesty, graciously to give Command for your Petitioners Summons to this present Parliament, there to Sit and Enjoy the Place and Preheminence to the said Dignity to him descended, and of Right belanging.

And your Petitioner shall dayly pray for Your Majesties long and prosperous Reign over us.

A

THE

THE
C A S E
OF
Molineux Disney Esq;

PRESENTED
To His Sacred MAJESTY, and the
Lords in PARLIAMENT Assembled.

MARCH 21. 1680.

Herbert, Hen.
8. 303. 306. an.
Regn. 21. Dug-
dale Baro. 2d
Part Hen. 8.
13. 398.
B in offic. Reg.
armor.

SIR *John Hussey* had the Mannors of *Blanckney*, *Scapricke*, *Metberingham*, with many others, granted to him and his Heirs for ever, by King *Henry* the Eighth, in the Twentieth of his Reign, to hold the same *per Servitium Baronie*; was Summoned by *Writ*, and *Sate* in the Lords-House the First of *December*, in the One and Twentieth Year of the same King.

Sir *William Hussey* Knight, was Son and Heir to the said *John Lord Hussey*, by his first Wife.

The said *John Lord Hussey* was Attainted and Executed for High-Treason, in the 29th of *Henry* the Eighth; and his Attainder amongst others Confirmed by Act of Parliament, in the three and thirtieth Year of that King.

Inquis. p. mor.
2d pars 3. & 4.
Reg. & Regim.
Ph. & Maria
No. 121.

Sir *William Hussey* was in the Third year of *Edward* the Sixth restored in Parliament in Blood, as Heir to his said Father *John Lord Hussey*, and Died *secundo & tertio* Philip. & Maria, leaving only two Daughters, *Neale* and *Anne*.

Neal Married to *Rich. Disney*, from whom the Petitioner *Mollineux* is descended in the right Line.

Anne Married *Francis Collumbel*, and Died without Issue.

Sir *John Hussey* Lord *Hussey* had Issue Sir *William Hussey* Knight.

Neale Hussey Married *Richard Disney*; had Issue *Daniel Disney*, Sir *Henry*, *William*, and *Molineux Disney*.

Inquisitio su-
pra & 20 Eliz.
No. 2d.
Inquis. 30.
Eliz. Rot. 31.

1. Whether Sir *William Hussey* by the Act of Restitution before-mentioned, was restored to the Honour of his Father the Lord *Hussey*, is the first Question.

2. Whether supposing him Restored, the Complainant or Petitioner *Molineux Disney* have Right unto, and ought to possess the same, being descended from the eldest (and the only surviving) Heir to Sir *William Hussey*.

In the first place, because the Right of Sir *William Hussey* does wholly depend upon the strength and validity of the Act of Restitution, I shall propose it to your Consideration, in the following Method:

1. By giving you the Words of the Preamble or Argument, and their Intendment.

2. Of the Petition or body of the Act, and its Import and Signification.

3. The Sence and Designe of both together.

In

IN most Humble and lamentable wise Sheweth unto your Highness your The Preamble.
Faithful and most Obedient Subject Will. Hussey Knight, Son of Sir John Lord Hussey; That whereas the said John Lord Hussey, in the time of your most Noble and Gracious Father, of most famous Memory, King Henry the Eighth, was justly Attainted of High-Treason, at and by course of the Common Law of this Realm; and by reason thereof your said Subject standeth and is a person in his Blood and Lineage Corrupted, Whereby he is not only Deprived of all manner of Degree, State, Name and Fame, and of all other Inheritance, which should or might have come unto him from his said Father, if the same his said Father had not been Attainted: Whereby your said Subject resteth now out of all Name and Reputation, to his great discomfort and daily Sorrow. And forasmuch as your said Subject is and always hath been to Your Highness, and other Your Grace's Progenitors, a true and faithful Servant; It may, &c.

The Preamble of a Statute is a Key to open the minde of the Makers, and to shew the Mischiefs they intend to remedy that make them. My L. Cook. 4. inst. 79. Shep. Epit 99.

The Mischiefs to be provided against in this Act are expressed, 1. In their Causes. 2. In their Effects.

1. It mentions the Attainder of his Father John Lord Hussey, as the primary or efficient Cause; for thereby Sir William became Corrupted in his Blood and Lineage.

2. The Corruption of his Blood was the Formal Cause, whereby he was deprived or made unable to Inherit.

3. The loss of his Inheritance, which was twofold; 1. Of Degree, State, Name and Fame. And 2. other Inheritance that might have come to him from his Father, was the Final Cause of these sad Effects he complained and lamented, viz. The loss of Name and Reputation.

Attainder is onely the Judgement of the Law upon any person being Cook. 1. Inst. 391. B.
Convicted of Felony or Treasons; but where Statutes provide against Corruption of the blood, they onely affect the person that suffers by them during life, but forfeit not the Honours or other Inheritance from the heir, as the 5. Eliz. 1. 18. Eliz. 5. 1. Eliz. 11. of Treason. 1. mor. 12. 5. Eliz. 14. 31. Eliz. 4. of Felony, because the said Statutes provide the blood shall not be Corrupted. A Corruption of Blood and Lineage (*quod notat generis antiquitatem*) is styled a particular and distinct penalty inflicted by the Law; whereby the offenders Children cannot be Heir to him that is attainted, nor to any other Ancestors; and if he were a Gentleman or Nobleman before, not onely he, but also all his Children, having respect to the Nobility which they had by their Births. It defeats the descents of all Inheritance, makes the Family degenerate to all Succession; and is called *Corruption of blood*, because the right of Inheritance which is by the degrees of the Contamination of blood directed, is by that means determined or ended; and in hatred of the Crime, it is called Corruption, with the Infection whereof all their Children are infected and defiled. And it is of so hainous esteem in Law, that the Kings prerogative *à parte ante* cannot repair it, it can onely be restored by Act of Parliament. This is the *causa sine qua non*, the cause onely whereby the Inheritance of what denomination soever, becomes forfeited against the Heir. The Inheritance in this case forfeited, is expressed by these words, 1. Name, State, Degree and Fame; And these words are paraphrased to signifie Renown, Honour and Dignity. Degree, *propter Egregia facta clarus, status dicitur Conditio qualitasve personar. quæquis plurimum potest & in institutionibus dicitur Jus personarum Gradum pro Existimationis & honoris loco usurpari notum est, hic in gradum reponere est dejectum restituere*, Fame, *à la, Lucio, Splendio*. The same with pre-eminence and name is termed a *Synonyma* with Honour. Spigel. Spel. gloi. 524. Minsh. Dict.

The Title of Baron is named by *Status, Gradus, & Dignitas*, which words are Inserted into all the Patents of the Nobility, and are part of the name of the possessor. In the Letter or *Manifesto* sent from the Convocation of the Province of Canterbury to the Council of Montons, by the words Degree, State, Cook. 7. R. f. 34. B. Nevill's Case. Bird & Dodd 169. 2. Inst. 9. Sinod. 1536.

State, and pre-eminence, were Comprised all Honours both of the Spiritual and Temporal Princes. And in that memorable Record of recognition and restitution of *Edw. the Fourth*, where by Parliament his Title is set forth at large, and that of *Lancaster* condemn'd; the words State, Dignity, Title and Pre-eminence, are often used, as sufficient to Comprehend and Include all degrees and honours whatsoever.

2. The Statute sayes, *And other Inheritance*; which words are expressive enough to signifie all Estates and Hereditaments whatsoever; but the word *other*, though Capped with Inheritance, yet is here a Relative, and has one eye upon the words state, degree, &c. foregoing; and declares the quality of it's Antecedent, and gives it the denomination of Inheritance: and so the sense is, that he laments the loss of that Incorporeal and Imaginary inheritance of Honour that is Comprised in these above mentioned terms and Expressions.

K. John an. 17.
Mag. Chart. 29.
Cook. Man. ten
Parl.
That Honour is an Inheritance, is not onely asserted by the *Magna Charta* of King *John*, but allowed and acknowledged by all men at this day: And the words before mentioned were significant to express it. And it is manifest by the express Letter of the Preamble, the loss of his Fathers Honour and pre-eminence is the final cause of those mischeifs and effects, to wit, Sir *Williams* loss of Name and Reputation, for which he was in daily grief and hearty Sorrow.

It was not the loss of his patrimony or real estate; he was considerably provided for by the settlement on Marriage, long before the Attainder of his Father; he was invested and Endowed in 33. *Hen. 8* with a Royal donation of Mannors and possessions.

Cook. 2. Infl.
666.

He was a Knight at the time when he petitioned, so within the Quality of the lower names of Nobility, and the Title not called in question by the attainder of his Father; in that Quality he might have challenged a good Degree and Reputation. In those elder dayes it was not so cheap, as to be attained without Fame or Merit; and there was no name of Dignity between the Title of a Knight and a Baron; Patents for the Creation of a Baronet were of much later institution.

His sorrow and affliction was for the loss of a Superiour Name and Degree of Nobility, vested in his Father as of Fee, and lost in his Attainder, by the Corruption of the Blood that was betwixt them: he aimed at a more Eminent Name, the degree of a Baron.

Having stated (and exhibited his deplorable and Unfortunate) as he expresses it, Condition, before he commences his Petition, he in the close of the Preamble, presents himself by the best and most obliging Insinuation he could devise, whereby he might obtain this Act of Grace and Favour, viz. That he had been to His Majesties Progenitors, then was, and during life did oblige himself to perform and do true and faithful Service to His Majesty; which because it alone comprehends the necessary and Implied Duty of a Peer (for Council in time of Peace, and assistance with Force in time of War) may be allowed no mean inducement, why he was admitted to his restitution. (I hope reward will not go backward, but that our Loyalty to His Sacred Majesty, and his most Royal Father, attested by the most extream of Ruine and Sufferings, with our most faithful resolutions of the same Obedience, will at least usher us in our present Petition without prejudice before you.)

The words of the Petition and Restitution follow:

That it may be at the humble Petition of your said Subject Ordain'd, Established, and Enacted by your Highness, with the Assent of the Lords, &c. That your said Subject, and his Heirs, may be and shall be, by the Authority of this Act, *Restored and Enabled onely in Blood, as Son and Heir and Heirs to the said John Lord Hussey, in such, the same, and like Manner, Form, and Condition, to all intents, Constructions, and Purposes, as if he the said John Lord Hussey, Father to your said Subject, had never been Attainted, and as though any such Attainder of the said John Lord Hussey had never been had or made.* And that your said Subject and his Heirs may hereafter use, or have any Action or Suit, and make his Pedigree and Conveyance in Blood, as Heir as well

well to and from his said Father, (as also to any other person or persons from henceforth and hereafter) in like manner and form, as if the said John Lord Hussey, Father to your said Subject, had never been Attainted, and as if no such Attainder were or had been had. The Corruption of Blood between the said John Lord Hussey and your Subject and his Heirs, or any Act of Parliament or Judgment concerning the Attainder of the said John Lord Hussey, or any other thing whereby the Blood of the said John Lord Hussey is or should be Corrupted, to the contrary in any wise notwithstanding.

Notwithstanding this Death so positive, and Corruption so contagious, ^{17 Jac. 2.} the Law has reserved a power, and can enliven and repair, and that only ^{2 Inst. 372.} by Act of Restitution; which Acts are termed in Law, *Acts of mere Grace and Favour*: Now Acts of the Kings Grace and Favour, in the Second Institute, are defined, *Quando Rex dignatur cedere de jure suo proprio & Regio, pro Quietē & Commōdo populi sui*; When the King is pleased to depart from his Right and Prerogative, for the good and benefit of his people.

The Law ever favours its own Acts, where it *usus ficitio Juris*; it conveys at all supposed Defects, or else supplies them with a favourable Judgment, as in Recoveries; but above all, in its respects to Restitutions, where in the third Institute 'tis said, *The King himself hath no Favour, nor his Prerogative exemption, but the party restored is wholly favoured*: And farther saith, *In Chartis benigna facienda est Interpretatio, in fundatione damnorum Religiosorum & aliorum Operum Chartalis magis benigna, in Restitutionibus benignissima*. It was there in Courtney's Case resolved, that if he had been restored in Blood only as Heir unto his Father, it had made a Fee-simple in him, so as the Heirs Lineal and Collateral might in course be admitted to convey their Descents and Rights; which words, without some favourable judgement, would not have made a Fee.

Be pleased to observe, the Definition of Restitution is, *Aliquid in primitivum statum reducere*; Restitution is the reducing or restoring a thing into its former estate and condition. ^{Cook 3 Inst. tit. rest.}

Sir William Hussey and his Heirs are Restored and enabled in Blood only, as Heir and Heirs to the said John Lord Hussey; which words, in Blood only, we conceive are full enough to restore the Honour; and to have added more, would have made but a Tautology, which the Law avoids: for *expressio ejus quae tacite inest nihil operatur*.

The Common-Law regulates all Claim by the whole or half Blood, and disposeth of all Estates by the nearer or remoter claim of Consanguinity, and consequently fills the Inheritance according to descent of Blood to the Direct or Collateral Line: The Eldest Son is stiled *Heres Sanguinis*, and cannot be deprived of that Privilege, tho he may be disinherited of the Estate, and without Blood none can Inherit. ^{Cook 3 Rep. fol. 41. Ratcliffs.}

The greater Nobility in our Nation are divided into Noble by Blood, and Noble by Tenure or Office: The call by Writ to Parliament, and Sitting there, is an Ennobling of the Blood; the Explicative words of the Writ, *Cum ceteris Prelatis, Magnatibus & Proceribus*, &c. do fully prove it: For by the Custome at this day there passeth an Inheritance to whom it is directed; so it is also by persons Created by his Majesties Letters Patents, *Tenere per Servitium Baronie*.

And it is said in Ratcliffe's Case, That the Dignity is inherent in the Blood. ^{3 Rot. f. 41.} 'Tis said in Nevil's Case, That Dignity is adherent to the Blood: And in Nevil's Case Jones's Reports, fol. 123. That the Dignity is personal, and annexed to the Blood. ^{7. r. 33 B. Tref. Mod. Times, 459.} 'Tis an indelible Character in the Blood, and is derived as the Blood is, it cannot be divested of its Privilege; for personal Incapacity, as Infancy, Ideocy, &c. in all such cases 'tis only in suspense: for Nobility, together with the seed of the Parents passeth unto Posterity.

*Qui virit in foliis venit à radicibus humor,
Et Patrum in Natos veniunt cum semine mores.*

B



Mantuan.

Accordingly

Page. 8. of
Edw. 3. Tref.
Mod. Time,
475.

Accordingly the practice of our Country allows Customary Respects to Persons of Noble Blood, beyond and against the Form and Rules of Common-Law, permitting the Son in the life-time of his Father, to use his Title, so soon as he attains a greater Honour, as from a Baron to become an Earl; admitting Women, by their Proxies, to do Knights-Service to Offices of Constable, Marshal, and to Peerage: *Nec Citatio, nec Summonitio debet fieri versus eos qui sunt de sanguine regis, quia illis major Reverentia debetur.* This is warranted by this Maxime of our own: Things once granted to any man by the Prince, are not to be return'd or withheld to his loss and disgrace.

Caftance.

And the Maxime of the best-govern'd Commonwealths make provision, *Quod Ordinum dignitas familiarumque salva sit; Ornanda est potius dignitate domus, quam ex domo dignitas ubi vis honestanda.*

3 Inst. 47.

6 r. 33. l. 13.

Vid. Cottons
10. Rec. Tow.
multis in locis.

It being proved that Blood and Honour *ad termini univoli ejusdem essentie & nature*; It's time to apply this Maxime, *In Restitutionem non in panam Hæres succedit.* So that by the Restitution in Blood, the passage is opened, and the stream purified. And if the Father could not Alien or Bar his Son of his Right unto the Honour, by reason it was indelibly fixed in the blood, and must go as it passeth to, and communicates itself, by its Restitution, as an Inheritance, it is impliedly restored. It was Adjudged in 39 Eliz. that the Blood being restored, all that which did stand or depend upon the same foundation, is restored with it; and the Corruption being discharged, all Forfeitures that were Consequences thereof became discharged also.

The word, *Onely*, in the Act of Parliament, will make neither Alteration nor Abridgment in this case: all Acts of Restitution are Intitled, either to be in Blood, or in Blood and Lands: The words in this Act are restrictive, and meant exclusive to the Estate; for Sir William was utterly barr'd and excluded to Claim or Inherit any real or possessory Estate, as Heir to any of his Ancestors by any means, by several Proviso's in this Act, as well as by this following:

Provided always, &c. that this present Act of Restitution, or any thing therein contained, shall not in any wise extend to inable the said William Hussey, nor his Heirs, to Demand, Have, or Claim as right Heir to the said Lord Hussey, by any ways or means, any Mannors, &c. or Hereditaments which were the said Lord Hussey's in Possession, Reversion, Remainder, or in use; which Mannors now be or ought to be, in the possession of our said Sovereign Lord the King, or of his Patentee or Assignee, or of the Patentees or Assignees of the most Noble King Henry the Eighth; but that the King and his Heirs, his Patentees and Assignees, shall and may from henceforth peaceably have, hold, occupy and enjoy all and singular the Mannors, &c. whereof the King or any other of his Patentees, &c. or any other of their Patentees, are now of Right, or ought to be in Possession or Seisin, by reason of the said Attainder, or by reason of any Officio found or to be found, this present Act of Restitution, &c. notwithstanding.

Those Proviso's were Deeds to prevent Sir William's Claim of the Estate, either upon the King, or his Patentee, or Assignes: and lest the word *only* should not be powerful enough to abridge and confine the Restitution to the Honour exclusive to the Lands: For by a Restitution as Heir in Blood only, he had been restored impliedly to the Inheritance.

Cook 3d Inst.
47.

And if no Inheritance pass by this Act, then he cannot be restored as Heir, who is so called *ab Hæreditate*. 'Tis a Maxime, that *Exceptio in non exceptis firmat Regulam*; the exception shall confirm the Restitution to what is not excepted: Honour is not only an Inheritance, but incident, and so inseparable to the Blood, that like Hippocrates his Twins, they live and die together, and cannot be separated but by Act of Parliament; as it is manifest in the Case of George Duke of Bedford.

17 of E. 4.
Inst. 345.
Tref. Mod.
449.

And these Proviso's may farther satisfy, that the Lawgivers would have expressed the like Diligence and Care to have abridged his Claim unto the Honours, that they have done to all interest relating to the estates; but having made no such provision, we may infer his Restitution thereunto from

from this reasonable Maxime of our Law, *Qui non prohibet quod prohibere potest, assentire videtur.*

But by the words of the Act, he is not only restored as Heir, but as Heir to the Lord *Hussey*, in such, the same, and like manner, form and condition, to all Intents, Constructions and Purposes, as if the said John Lord *Hussey*, Father to the said Sir William, had never been Attainted, and as though any such Attainder of the said John Lord *Hussey* had never been had or made.

These words not only manifest the sole and full intent of the King and Parliament to take away all doubt and question; but also express in what Quality he was restored as Heir, and intimate fully what manner of Inheritance was to descend upon him, and that in as large and beneficial terms as the Law-makers could possibly devise, having appointed him Heir to the Lord *Hussey* his Father.

And for the better effecting and strengthening his Claim and Title thereunto, they have both by giving Directions and Authority, and by outing and vacating all Obstructions, made his Restitution undeniable.

The words of the Statute ran, *And that the same Sir William and his Heirs may hereafter use, or have any Action or Suit, and make his Pedigree and Conveyance in Blood as Heir as well to and from his said Father, (as also to any other person or persons from henceforth and hereafter) in like manner and form, as if the said John Lord Hussey, Father to the said Sir William, had never been Attainted, and as if no such Attainder were or had been had: The Corruption of Blood between the said John Lord Hussey, and Sir William and his Heirs, or any Act of Parliaments or Judgments concerning the Attainder of the said John Lord Hussey, or any other thing whereby the Blood of the said John Lord Hussey is or should be Corrupted, to the contrary in any wise notwithstanding.*

By these words he is made *rectus in Curia*, admitted as Heir to use the benefit of the Law, as Heir to frame his Genealogy and Descent, and to derive his Pedigree by his Father the Lord *Hussey*, as if no such Attainder, &c. Now if his Father had not been Attainted, the Pedigree in fact had run, John Lord *Hussey*, to him and his Heirs, &c. Sir William *Hussey* Lord *Hussey*, *post mortem Patris*: and if he frame not his Pedegree in that form, my Heraldry can finde no other.

Further, the word *Notwithstanding*, or the *Non obstante*, in the conclusion of the Act, hath so enervated and cancell'd the mischief of the Attainder, the contagion of the Corruption, the rigour of the Judgment, the force of the Act of Parliament, and the ill effects of all other Acts in Law, that either concerned the Lord *Hussey*, or Sir William as his Heir, that he is now restored and inabled absolutely, against their whatever influence or malignity. 'Tis said that the putting into Charters of Pardon these words, *Non obstante aliquo Statuto ordinatione in contrarium edito*, thereby the force of the Statutes is quite taken away; and not only of these, but also of all other in which this Clause of *Non obstante* is inserted, for it is a dispensation of the Statute. When a Statute is made by Parliament, the King cannot give the Penalty, Benefit, or Dispensation of the same to any Subject; but the King may make a *Non obstante* to any particular person, that he shall not incur the penalty of a Statute.

Leges posteriores priores abrogant; and where a *Non obstante* is inserted into an Act of Parliament, it cassates and defeats the power and purpose of any Law established to the contrary.

Having given so full and large a Paraphrase and Exposition of the several parts of this Act of Restitution, we shall have less need to enter in giving the general sence of them put together.

'Tis given for a Rule in the Exposition of a Statute, That the Occasion of making of a Law be first considered; and 'tis allowed 'tis a good reason to expound it: The mischiefs that were here expressed, that by the Corruption of the Blood between Sir William *Hussey* and his Father the Lord *Hussey*, he was lost, and was deprived of all Degree, Name, State and Fame,
(Terms

Poulton, de
Ju. pa. Reg.
208. 4. B.

Co. 7. r. per
Stat. 2 Jack.
485.

Cook 1 Int.

(Terms already before sufficiently explained) so became as a person of no name and reputation, &c. petitions to be, and was thereupon *restored in Blood*, as Heir to his Father the Lord *Hussey*, &c.

1 Inst. 381. B.
Ibid. a.

The Law says, *That Construction must be made of a Statute in suppression of the mischief and advancement of the Remedy*. And gives a farther direction, that 'tis the most natural and genuine Exposition of a Statute, to consider one part of a Statute by another part, for that best expresses the minde of the Makers, and above all things takes care that such an exposition may be given, that may carry with it some right and signification, *Nam Alius Parliamenti construi debet cum effectu*: So as it being expressed that the Mischief to his Honour was only by the Corruption of the Blood, the Restitution, which is opposite, was the only means to remedy the same. (The Kings Pardon might indeed have enabled *à parte post & in futuro*; but nothing less than an Act of Restitution could have given Sir *William* Inheritable Blood unto his Father) and the wound and breach which came to the Honour by the Corruption, was only to be remedied and revived by the Restitution. In Death and Life the Blood and Honour cannot possibly be separate; and this cannot be called a Restitution, if Sir *William* was neither restored to the Land nor Honour.

Dier. 138.
p. 29.
Ibid. 274.
p. 40.

When the Law uses its *fictio Juris*, it never creates a power or a term to no use, as this Restoring of the Blood would be, if it did not imply more in imagination and intendment, than in reality and substantial Demonstration; for it works Legally, not Naturally, and must be expounded as the Law directs; which in cases of Restitution the Law expounds with all possible favour, both against the King and his Prerogative, in advantage of the persons restored. So I shall conclude this point, that as the Honour was placed in the Blood at the Creation, forfeited by the Blood by the Corruption; so it was revived in, by, and with it in this Act of Restitution: For the Restitution in Blood, if the Honour be denied, is short of Restoring the thing Forfeited, and not answerable to the genuine and allowed Definition of a Restitution, which is *in pristinum statum reducere*: It is not restored into its former Estate and Quality, unless it makes it noble, as it was before the Attainder; and such an Interpretation is short of the Grace I here intended, or indeed of a rational and beneficial Exposition of this present Act of Restitution.

Obie 7. 4.
5 Edw. Inst.
Tit. rest.

'Tis Objected; The Lord *Cook*, who distinguishing of Restitutions, divides them to be *secundum quod*, or (as he calls it) in Blood, and in *integrum*; farther saith, That Restitution in Blood only neither restores to Land nor Honour.

Answe.

(*Salva pace*) I answer.

1. 'Tis not an Opinion given upon the Bench, neither by himself or other his Brethren the Judges.

Dier. 138.
p. 39.

2. 'Tis an expresse contradiction to himself, if compared with what he affirms for Law, 3. *Instit.* 47. there he saies expressly, by Restitution of Blood the Inheritance is impliedly restored. Now if the Inheritance, then consequently the Honour, which is an intelligible Hereditament, and descends according to the form of estates at Common-Law, is an incident inseparable to the Blood, and by the degrees of the communication of the blood directed.

3. It's expressly contrary to his own Definition of a Restitution, or at least very short of the import of its extent; *Restitutio est nibili aliud quam in pristinum statum reducere*: Now if the Blood was Noble before the Attainder, and Corrupted with it, it must be made noble again in the Restitution, or else it cannot otherwise return *in statum pristinum*, or be *in statum quo prius*, or Honour'd.

4. If it doth not restore him upwards in his Blood, it hath no farther power than the King may use by Patent of Pardon, which may capacitate any born after the Attainder to Inherit, and shall salve the Corruption; but

but Restitutions by a Parliament have a greater Power and farther Intendment in the Law, and that is to Restore absolutely upwards and downwards, before and after; unless there be a Limitation, as in this Act in the Case of the Collateral Ancestor.

5. This is no Restitution in part nor in the whole, if neither Land nor Honour be restored: for literally taken, and Physically understood, it has no operation, *At Añus Parliamenti construi debet cum effectu.*

The cases produced by the Lord Cooke to be *in integrum*, 13 H. 4. 20. 4 H. 7. 7. 3 H. 8. 35. B. 157. because they did not concern Honour, nor persons of that Estate and degree, may be only here offered, for that in those and in all others, they were expounded in all possible favour to the party restored, and adjudged for his advantage that was to take by them.

The Case which he recommends of the Countess of Salisbury, as being a Restitution, & *in integrum*, under his favour I conceive, may be rather termed a Creation, then a Restitution, for the Reasons following.

1. She was Heir to her Ancestor, who was as well Duke of Clarence, and Earl of Warwick, as Earl of Salisbury; so that had she been restored *in integrum*, she must have Possessed and been Invested in all these Titles. And therefore she was limited to one, lest she might have taken by general words farther than the King and Parliament intended.

2. 'Tis without Prejudice that the Females have been restored (or possessed) to the Honours themselves, (though in case of feudal Honours, or Honours that belong to Office, they have given the Titles to their Husbands) and I find not that *Hanisia*, Sister to *Randolph* Earl of Chester, who gave her the Earldom of *Lincoln*, that she enjoyed the Title of a Countess, though by her Grant thereof unto her Son *John Lacy*, (the Kings confirmation had) he thereby became Earl of *Lincoln*. They are in Law esteemed not as Principles to possess, but as *Mediums* to convey the Blood and Honour.

'Tis allowed Law, and in general use, that a Husband Marrying a Woman Heir to a Barony, shall not therefore be Tenant by the curtesie, or admitted to the Title *Jure Uxoris*; but after they have Issue together, the King may by favour make him Lord in the right of his Wife, and in the right of her Children.

From these Reasons I conceive hers was rather a Creation than a Restitution, otherwise she should not have been allowed as a single Peer or Countess of *Salisbury* only. And from what has been alledged, I hope I may conclude, that by this Act of Restitution, expounded and warranted by Custom, Law, and President, Sir *William* was well restored unto the Honour.

The second Question is, whether (supposing Sir *William Hussy* was restored unto the Honours of his Father) the Complainant *Molineux Disney* have right unto, and ought to possess the same, being Lineally descended from the Eldest (and in time the only) Daughter and Heir to Sir *William Hussy*, the other Co-heir being dead without Issue.

All Titles of Nobility at this day are either made by Letters Patents, in which the words of Limitation must be observed, or else by Writs of Summons; and then by the general Custom of the Land, there passeth an Inheritance to whom it is directed, the same is intended a Fee-simple, (unless some special limitation in the same direct the contrary) and so the Dignity Collated for want of Heirs Male, passeth to the Heirs Females as Fee-simple Inheritance doth; which Descents in Fee-simple, in Law, have their certain limitation.

Our Kings descended from the *Normans*, together with the Crown of the Kingdom, granted an Hereditary and Successory perpetuity unto Honourable Titles, as Earls and Barons, without difference of Sex at all; so that the Titles of the Superiour Names of Nobility to this day, have this natural and common together with the Crown itself, that the Heirs Males failing, they devolve unto the Women.

The most of the Ancient Nobility of England, enjoy their Titles descended unto them from Women of their Baronies, which they hold neither by Writs nor by Letters Patents, but by continuance of that Custom; which proveth the lawfulness sufficient for them. And when there have been no more Daughters and Heirs but one, it has never been questioned, Cooke 4. *Inst. in Man.*

That may be in a person to grant or transmit unto his Issue, which is not in him to hold or use. So the King may have an Office in him by grant, to grant, although he cannot be an Officer unto any; and so the Women may convey and transmit the Blood and Honour, though they cannot possess the Title themselves.

Seld. Tit. H.
134.

Bracton.

Now although all Daughters be Copartners, and make but one Heir at Common-Law, yet in descent of Dignities it is otherwise; for they be things that pertain to Superiority, and therefore descendable by rule of Law, unto the eldest; unless there be several Dignities to bestow, then all the Daughters may be provided, with respect to the Prerogative of the Eldest. *Si sunt plura Capita, divide possunt inter Coheredes, salvo jure Esneſſæ*; If there be several heads of Baronies, they may be divided amongst the Coheirs, the right of Eldership being preserved.

England, France, and Spain, differ little in their Customs to Barons apparent, in which Countries after the death of a Baron without Heir Male, the eldest Female next in Blood and Kindred on the Fathers side, as Heir general succeedeth in the Dignity and best part of the Patrimony after division justly made.

Hist. of Mod.
Times, 524.
Rot. Parl. 13.
Ed. 3. m. 12.
Seld. Tit. Hon.
644.

This Privilege is called a Prerogative of the Eldest, and ascertained by all Authors for Law, and is conformable to the Civil Law; *est quoddam jus quod datur unicuique agnationis suæ Familiae, quod non videtur transire ex illa, viz. Arma & nomina familieque gradatim deveniunt ad Successores, & alienari non possunt.*

William Valence Earl of Pembroke in Fee, had Issue Aymer de Valence, (who succeeded in the Earldom) and four Daughters, Isabel, Joan, Agnes, and Margaret; Aymer died without Issue of his Body, his Inheritance descended to his Sisters and their Issues, amongst whom Lawrence Lord Hastings was Lineal Heir to the eldest, the Lady Isabel Wife to the Lord Hastings his Grandfather, and his right was recognized as Heir to Isabel, *ut sequitur. Rex, &c. sciatis, &c. ut ipsum in hiis que honoris sui debitam conservationem, respiciunt proias favoribus prosequimur; cum igitur hereditas bonæ memoriæ Adamæ de Valentie Comitis Pembroke, pridem sine Hærede de Corpore suo decedentis, ad Sorores suas fuerit devoluta, inter ipsas & eandem Hæredes proportionabiliter dividenda. Quia constat nobis quod prefatus Lawrentius qui dicto Adamero in partem Hereditatis succedit, est ex ipsius seniori Sorore Adamæ descendens, & sic petitionem assertionem quos super hoc consulimus, sibi debeat Prerogativa nominis & honoris, justum & debitam reputamus ut idem Laurentius ex seniori Sorore causam habens, assumat & habeat nomen Comitis Pembroke, quod dictus Adamæ habuit dum vivebat, quod quidem nomen quantus in nobis est, confirmamus ut prædictus Laurentius Prerogativum & Honorem Comitis, &c. The King, &c. Know ye that we will assist the said Lawrence in all things that appertain to the rightful preservation of his Honour, with our gracious respects. Seeing therefore the Inheritance of Adamæ of Valence, Earl of Pembroke, of happy memory, (long since dying without Issue of his Body) came unto his Sisters proportionably to be divided amongst them and their Heirs; because it is made manifest to us, that the aforesaid Lawrence, who succeedeth the said Adamæ in part of his Inheritance, is descended from the eldest Sister of the said Adamæ, and therefore by the judgment or assurance of the Learned, whom we have advised withal in this affair, to him doth belong the Prerogative of the Name and Honour: We judge it lawful and right, that the said Lawrence having claim and right by the elder Sister, should assume and possess the Name of Earl of Pembroke, which the said Adamæ did enjoy whilst he lived. Which said Names,*

for

for as much as in us is, we do confirm, that the said Lawrence the Prerogative and Honour of Earl, &c.

In this Case these points are resolved, for the Record affirms it was adjudged after consultation and advice had with the Learned in this matter.

1. That the Eldest Sitter by justice and right ought to be preferred to the Honour by her Prerogative, or as others call it, *Jure Esneſie*.

2. It was demandable after the death of the Mother, for Lawrence was Grandchild to *Isabel*, by whom the right unto the Title did accrew.

3. That this Title lay only in Obeiance, or asleep in the King, was not extinct.

4. The King did only confirm the Right, not Create it; Declare it, not Constitute it: and the words seemed to intimate, that he had not much in him to grant.

5. That the distance of time, nor casting a discent, made no bar unto his claim, as was after resolved in the Case of the Lord *Camois*, who had so long absented himself from his place in the House of Lords, that he was chosen Knight of the Shire to serve in Parliament, but discharged by Writ upon the Exhibiting his Case, and a new Election ordered.

Randulph Earl of *Chester* dying without Issue, the Earldom was divided betwixt his two Sisters, but in less than two years that Judgment was reversed as Erroneous, and the Honour vested in *John the Scot*, Husband to the Eldest Sister, he after dying without Issue, and it descending to his Sisters, *Quia terra sua Regali gaudet Prerogativa, Comitatus ejus ad manus regias devenit, datis alias terras suis Heredibus & Sororibus in Compensationem, ne tam præclara donatio inter Colas dividi contingeret: Because his Estate did enjoy Royal Prerogative, the Earldom came into the Kings possession, other Lands were given in recompence to his Sisters and Heirs, lest so transcendent an Endowment should happen to be divided amongst Women.* Seldons Tit. Hon. 882. Bract. lib. 5. Tract. 2. cap. 2. fo. 337.

The first part of this last President in Judgment upon Errour, confirms the Law of right of the Eldest.

2. It proves the Womens right, for that the King could not dispossess them without their consent; and if they departed from their right for a recompence or compensation, the Law says, *Volentibus non fit injuria*.

Hugh Audley the younger, and *Margaret* his Wife, Petitioned our Lord the King in his Council of the Prelates, Earls, and Barons of the Land; the Petition was for the Earldom of *Cornwal*, after the death of *Pierce de Gaveston*, to whom it was given in general Tayl, *Margaret* being his Daughter and Heir, because the great Charter Wills, that after the death of a Baron, his Heir shall have his Heritage and Marriage, and the Stat. of *West. 2.* Wills, *That Heirs in Tail shall not be prejudiced by the Deed, Fine, or Feofment of their Ancestors.* And the great Charter also Wills, *That no man shall be outed out of his Freehold, without the Award and Judgment of the Law of the Land, &c.* Clauf. 12. Ed. 4. 2. numb. 5.

Afterwards, upon Debate of this Petition, *pro eo quod recordatum fuit*, by the Lords and Commons, that it had been agreed by them, that all things given to *Gaveston* and *Margret* should be revoked, *per quod in hoc Parlamento per prefatos Prelatos, &c. & totam communitatem Regni consideratum est:* That the Earldom and all the Lands should remain in the King, that all Chartres of it shall be Repealed, and all Inrolments cancell'd.

1. In this President 'tis expressed very full, That the Inheritance of the Honour is secured to the Heir-general by divers Statutes.

2. That the Daughters claim as Heir unto her Father, was not opposed, but rather impliedly allowed.

3. Nothing less than an Act of Parliament could have barred her claim, or vested the Honour in the King, to continue it in him against her claim and right.

4. That she could not be outed of her Inheritance secured to her by *Magna Charta*, and the Law of the Land, but by the Award and Judgment of the Law.

Of

L. Co. 4. Inst.
Mod. 10. Par.
H. 3. Fitz.

Of all other Estates, the question is least doubtful in the state of a Baron, for all Authors agree, that higher Estates in the beginning, were Names of Office, and not of Inheritance, but the name of a Baron was a state joyned with Fee, with Jurisdiction over his own Vassals in his own Territories, as may appear by the Antiquities of Court-Barons. And the *Germans* word for a Baron expoundeth the same, calling him *Free Heron*, that is, Lord within himself. And our Law ordaineth, that every Heir and Baron, and their Heirs, ought to be Summoned to come to the Parliament; for it is a general rule, that Honour once bestowed by Sovereign Grace, ought not to be deem'd or with-held to the parties disgrace, shame, and prejudice.

Si aliquis Baro obiit, & non habebit heredem, nisi filius & prima genita filia maritata sit in vita patris, Rex dabit post natum filium hereditatem patris quod remanet in manu ipsius, & in hereditatem succederit: If any Baron having no Heir but Daughters only, and the Eldest became Married in the life of her Father, the King shall give after the Birth of her Son, the Inheritance that remaineth in his hand, and he shall succeed to the Inheritance.

John Mombrey Duke of *Suffolke*, begotten on the Body of *Elizabeth*, Eldest Daughter of *Richard* Earl of *Arundel*, was in her right made Lord *Mombrey*, though the Title of Earl of *Arundel* went to the Male Collateral Heir by limitation of the Intail. The Lord *Winsor* restored to his Title, as descended from *Eliz.* Eldest Daughter and Co-heir to the Lord *Winsor*. The Law of the right of the Eldest Daughter, is not only positive, but 'tis generally confirmed by Presidents; and when the Presidents of Descents to the Eldest Sister do expound the Law, then you cannot insit on any difference, for the claim is not by President, but by the Law expounded by Presidents.

Against the former discourses, 'tis objected, that the King in the Case of many Daughters, both has and may grant the Honour to which he pleaseth.

I answer, 1. *A facto ad jus non valet consequentia;* the Herald may proclaim the Fact before and against the rule of Law.

2. If the King have in some few cases used his Prerogative in making such Grants something besides the Law, that cannot destroy either the Law or Custom; nor can he do it in derogation or injury of particular Stocks and Families. The King granted the Honour of *Dacres* to the Male Collateral Line, in prejudice of the right of the Heir general, but upon her Petition, she was restored to her Honour and place in presidency.

The Case in *H. 8.* was judged against the Sisters for the Earl of *Oxford*, by force of an Intail, in *H. 6. Selden, Tit. 3.*

3. It is destructive of the course of Descent of the most absolute Estate the Law takes notice of, and would make the Inheritance of Honour an *Individuum vagum*, a glittering empty erratick Vapour; for if for the uncertainty, as is pretended, (though no such thing can be of the descent of a Fee-simple where there are Heirs, although such things may happen in the limitation of a Grant) the King may dispose to whom he please; it must be at the same time confest, that he may make his Election, whether he will dispose of it or not; and where no one has right, all can have none, for *Indefinitum aequipollet universalis*; and where there is no right, there can be no wrong. So that it will follow unavoydably, that the King may determine the Estate by such a supposition, both against *Magna Charta*, and the Common Law of the Land. And now by what has been said, no such uncertainty can be supposed; it is ever in the power of the Law to ascertain the Heir, if there be an uncertainty in the claim of the Competitors, & *id certum est quod certum reddi potest.*

But lastly, supposing such a power in the King, yet his Election is determined in this case, there being no person surviving, or any other to claim the same as Heir unto Sir *William Hussy*, but your Petitioner.

And where Presidents are urged and inforced against the course of the Common Law, they must be as Customs and Prescriptions, and that is many

ny and full, and without any interruption of Presidents to the contrary, or else they prove not, which cannot be produced to warrant this supposition.

Where Presidents have been, that both the Heir Male and the Heirs general have been called to that Dignity, the Heir General hath always had the Superiour place; which shews the other was but extraordinary, and out of favour, as in the Case of the Lord *Dacres of Giffland*. The Law doth never take away the right, where the disablement cometh by the act of God; so as if the discent be to some persons for some defects incapable, it shall make no determination of the Dignity, and therefore Infants, Ideots, &c. are not incapable of the Dignity to retain it, although they cannot perform the service indeed.

But because neither the Heir general if single, nor any Copartner (if the right of the Eldest be denied) can possess the Honour by her self, nor Husband by her right; It is left as a sacred trust in the King, for the benefit of the succeeding Issue, and sleeps, or is suspended in his custody until it be awakened by a Claim, and demanded by Petition. Nor doth the King gain such a right, that he can grant the same to any other in prejudice of the right Heir established by Law.

William West, Nephew to *Thomas Lord La Ward*, was disabled by Parliament to claim any Honour or Land from *Tho. Lord La Ward* his Uncle during life: *Thomas Lord La Ward* dyed; *William West* was Attainted and Pardoned, and after by Patent made *Lord La Ward*, and dyed after *Thomas* his Son, Nephew to *Thomas Lord La Ward*, upon his Petition was adjudged to be remitted to the antient Honour of his Uncle.

1. This proves, that this Honour was in the King only, as a depositum or trust.

2. That the King could not grant it to any in prejudice of the ancient right.

3. That though the right may sleep, and as it were, &c. by Deed in the King, it may be revived by Petition, and shall descend unto the Heir.

And if it be not in the power of any person, though with the Kings Allowance, by any Act of Law to extinguish a right unto the Honour, much less upon a Compliment or unwarrantable suggestion, may it be supposed to determine. It was resolved in the Case of *Longvil*, *nemine contradicente*, That no Peer of this Realm can drown or extinguish his Honour, but that it descend to his Discendants, and whether by Surrender, Grant, Fine, or any other Conveyance whatsoever to the King.

The same was confirmed in *Purbeck's Case*; the Lords did adjudge and resolve, that no Fine now levied, or hereafter to be levied to the King, can bar a Title of Honour, or the right of any person clayming such Title under him that levied, or shall levy such Fine. So that I hope I may conclude, that *Molineux Disney* your Petitioner, being descended from the Eldest Daughter, and now the only remaining Heir to Sir *William Hussy*, has a good and lawful right as his Heir, unto the Honour of the Lord *Hussy*. And then the great Charter Wills, that he ought to be Summoned, and the King cannot, may not deny his Writ, which is the substance and Import of his Humble Petition, now depending before His Majesty and this Honourable House.

Die Lunæ
1 Feb. 1542.
Temp. Car.

Die Martis 12
June, 1573.

In Parlamento per Prorogation. tent. apud Westmonast. quarto die Novembris, Anno nuper Regis Pie Memoræ Edwardi Sexti tertio Communi omnium Dominum, tam Spiritual. quam Temporal. ac Communitatis Consensu, ac dictæ Regiæ Majestatis tunc præsentis assensu inter alia sancitum, ordinatum, innactitatum, & stabilitum fuit sequens hoc Statutum, viz. pro restitutione Sanguinis *Willielmi Hussey* Militis, verbatim ut sequitur, viz.

Actus Parliam-
menti 3 Ed.
6. in Rot. in
Officina Sa-
celli Scri-
ptor.

IN most Humble and lamentable wise sheweth to your Highness, your most faith-
ful and most obedient Subject, William Hussey Knight, Son of Sir John
Hussey Knight, Lord Hussey: That whereas the said John Lord Hussey, in the
time of your Right Noble and most Gracious Father of most famous Memory, King
Henry the Eighth, was justly Attainted of High-Treason, at and by the course of
the Common Law of this Realm; and by reason thereof, your said Subject stand-
eth, and is a person in his Blood and Linnage corrupted, whereby he is not
only deprived of all manner of Degree, Estate, Name, and Fame, and of all
other Inheritance that should and might have come unto him from his said Father,
(if the same his Father had not been Attainted) (but of all and singular other
Inheritance that should or might by possibility have come unto the said Subject by
any other his Collateral Ancestor on his Fathers side, to whom he should or might
have Conveyed, or might convey himself as next Cozen and Heir of Blood, by
mean degrees by his said Father) whereby your said Subject as now resteth out
of all Name and Reputation, to his great discomfort and daily sorrow.

And forasmuch as your said Subject is, and always hath been to your High-
ness, and other your Graces Progenitors, a true and faithful Subject; It may
therefore please your Highness, of your Noble and abundant Grace, and for the
true and faithful Service that your said Subject intended to your Majesty and your
Heirs during his life, That it may be at the humble Petition of your said Sub-
ject, Ordained, Established, and Enacted by your Highness, with the assent of the
Lords Spiritual and Temporal, and of the Commons of this present Parliament
Assembled, and by Authority of the same, that your said Subject and his Heirs
may be, and shall be, by the Authority of this Act, restored and enabled only in
Blood, as Son and Heir, and Heirs to the said John Lord Hussey.

And that your said Subject and his Heirs from henceforth, may, and shall be
enabled to demand, ask, have, hold, and enjoy, all and every such Honors, Castles,
Mannors, Lordships, Hundreds, Franchises, Liberties, Priviledges, Advowsons,
Nominations, Presentations, Knights Fees, Lands, Tenements, Rents, Reversions,
Services, Remainders, Portions, Annuities, Pensions, Rights, and all manner of
Hereditaments, with their Appurtenances, which at any time hereafter shall come,
remain, descend, or revert from any Collateral Ancestor of your said Subject (other
than such Castles, Mannors, Lands, Tenements, Rents, Reversions, Services, Re-
mainders, Portions, Annuities, Pensions, Rights, and all manner of Hereditaments
with their Appurtenances, which were of the said John Lord Hussey his Father,
in Use, Possession, Reversion, Remainder, or otherwise, the day of the Treason of
the said John Lord Hussey, (and other than such Honours, Castles, Mannors,
Lands, Tenements, and other Hereditaments, as your most Noble Father, or your
Highness was, or is intituled to have, or might or ought to have, upon any Office
found, or hereafter to be found, by force of the said Attainder) in such the same
and like manner, form, and condition, to all intents, constructions, and purposes, as
if the said John Lord Hussey, Father to your said Subject, had never been Attain-
ted, and as though any such Attainder of the said John Lord Hussey had never
been had or made.

And that your said Subject and his Heirs may hereafter use, and have any
Action or Suit, and make his Pedigree and Conveyance in Blood as Heir, as well
to and from his said Father, as also to any other person or persons, in like manner
and form, as if the said John Lord Hussey, Father to your said Subject, had ne-
ver been Attainted, and as if no such Attainder were or had been had; the cor-
ruption

ruption of Blood between the said John Lord Hussey and your Subject and his Heirs, or any Act of Parliament or Judgment concerning the Attainder of the said John Lord Hussey, or any other thing whereby the Blood of the said John Lord Hussey is or should be corrupted, to the contrary in any wise notwithstanding.

Provided always, and be it Enacted by the Authority aforesaid, that this present Act, or any thing therein contained, extend not to restore or entitle your said Subject, or any of his Heirs, to any such Honors, Castles, Lordships, Mannors, Lands, Tenements, or other Hereditaments, which your Highness now hath, or had, or is, might, or ought to be entitled to have, by reason of any such Attainder or Attainders of the said John Lord Hussey; nor shall extend to any Honors, Castles, Lordships, Mannors, Lands, Tenements, Rents, Reversions, Services, or other Hereditaments, due of the said John Lord Hussey, which your Highness or most Noble Father King Henry the Eighth hath heretofore devised, exchanged, or granted to any person or persons in Fee-simple, Fee-tail, or for term of Life, Lives, Years, or at Will; but that all such Honors, Castles, Lordships, Mannors, Lands, Tenements, and other Hereditaments, with their Appurtenances, which your said gracious Father, or your Highness hath had, ought or might be entitled to have by reason of the Attainder of the same Sir John Hussey, Lord Hussey, upon Office thereof found, or hereafter to be found.

And also all the said Castles, Honours, Mannors, Lands, Tenements, Rents, Reversions, Services, and Hereditaments, which your Highness, or your said Noble Father have given, devised, exchanged, or granted, as is aforesaid, shall stand, remain, abide, and continue, in the same state, form, force, degree, and condition, as they and every of them were before the making of this Act, and as though this Act had never been had or made.

Provided always, and be it Enacted by the Authority aforesaid, that this present Act of Restitution, or any thing therein contained, shall not in any wise extend to enable the said Sir William Hussey, or his Heirs, to demand, have, or claim, as right Heirs to the said Lord Hussey, by any way or means, any Mannors, Lands, Tenements, or Hereditaments which were the said Lord Husseys in possession or remainder, reversion, or in use; which Mannors, Lands, Tenements, and Hereditaments, now be, or ought to be, in the possession of our said Sovereign Lord the King, or of his Patentee or Assignee, or of the Patentees or Assignees of our most Noble King Henry the Eighth; but that the King and his Heirs, and Patentees, shall, and may from henceforth peaceably have, hold, occupy, and enjoy, all and singular the said Mannors, Lands, Tenements, and Hereditaments, whereof the King or any other of his Patentee or Patentees, are now, or ought to be in possession and seisin, by reason of the said Attainder, or by reason of any Office found, or to be found; this present Act of Restitution, or any thing therein contained to the contrary notwithstanding.

Saving by the Authority aforesaid, to the said Sir William Hussey and his Heirs, their Petition of Right, their Travers and Monstrance de droit to all such Mannors, Lands, Tenements, or other Hereditaments which were assured to the said Sir William Hussey, and Ursula his Wife, before the said Treason committed, according to the Laws of this Realm. Also saving to all and every other person and persons, bodies Politick and Corporate, their Heirs and Successors, and to the Heirs and Successors of every of them, all such Estate, Possession, Right, Title, Interest, Reversion, Remainder, Lease and Leases, Claim, Condition, Term of years, Commons, and all other Profits and Commodities, as they have or ought to have, in and to the premises, or any part or parcel thereof, as though this Act had not been had or made, &c. Soit fait Come est desire.

FINIS.